



RULE-MAKING ORDER

CR-103 (June 2004)
(Implements RCW 34.05.360)

Agency: Department of Social and Health Services, Aging and Disability Services Administration

☒ **Permanent Rule**
☐ **Emergency Rule**

Effective date of rule:

Permanent Rules

☒ 31 days after filing.
☐ Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Effective date of rule:

☐ **Emergency Rules**
☐ Immediately upon filing.
Later (specify) _____

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

☐ Yes ☒ No If Yes, explain: _____

Purpose: The department has updated the Home and Community Residential Rates from the four level payment system to the Comprehensive Assessment Reporting Evaluation (CARE) payment levels and to reflect the vendor rate increases of July 1, 2006; and amended the bed hold section to clarify the requirements for third-party payment and clarify that an absence of less than 24 hours is not subject to a bed hold payment.

Citation of existing rules affected by this order:

Repealed: None
Amended: WAC 388-105-0005, 0035, and 0045
Suspended: None

Statutory authority for adoption: Chapter 74.39A RCW;

Other authority : RCW 18.20.290; Chapter 372 Laws of 2006; Chapter 260 Laws of 2006; and Chapter 64 Laws of 2006

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR 06-16-076 on July 28, 2006 (date)

Describe any changes other than editing from proposed to adopted version:

None

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting: N/A

Name: _____ phone () _____
Address: _____ fax () _____
e-mail _____

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- ☐ That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- ☐ That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

"Added by DSHS after filing"

☒ **ADOPTION**
☐ **PERMANENT**
☐ **EMERGENCY**
EFFECTIVE DATE:

10/9/06

Date adopted:

9/6/06

NAME (TYPE OR PRINT)

Andy Fernando

SIGNATURE

TITLE

Manager, Rules and Policies Assistance Unit

CODE REVISER USE ONLY

CODE REVISER'S OFFICE STATE OF WASHINGTON FILED	
SEP 8 2006	
TIME	4:30
WSR	06-19-017
	AM PM

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.

The number of sections adopted in order to comply with:

Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	___	Amended	<u>3</u>	Repealed	___

The number of sections adopted at the request of a nongovernmental entity:

New	___	Amended	___	Repealed	___
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The number of sections adopted in the agency's own initiative:

New	___	Amended	___	Repealed	___
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	___	Amended	___	Repealed	___
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The number of sections adopted using:

Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	___	Amended	<u>3</u>	Repealed	___

AMENDATORY SECTION (Amending WSR 06-07-013, filed 3/3/06, effective 4/3/06)

WAC 388-105-0005 The daily Medicaid payment rates for clients assessed using the comprehensive assessment reporting evaluation (CARE) tool and that reside in adult family homes (AFH) and boarding homes contracted to provide assisted living (AL), adult residential care (ARC), and enhanced adult residential care (EARC) services. For contracted AFH and boarding homes contracted to provide AL, ARC, and EARC services, the department pays the following daily rates for care of a Medicaid resident:

COMMUNITY RESIDENTIAL DAILY RATES FOR CLIENTS ASSESSED USING CARE					
KING COUNTY					
CARE CLASSIFICATION	AL Without Capital Add-on	AL With Capital Add-on	ARC	EARC	AFH
A Low (1)	\$((64.02)) <u>65.30</u>	\$((69.03)) <u>70.41</u>	\$((45.27)) <u>46.18</u>	\$((45.27)) <u>46.18</u>	\$((45.90)) <u>46.82</u>
A Med (2)	\$((69.32)) <u>70.71</u>	\$((74.33)) <u>75.82</u>	\$((51.37)) <u>52.40</u>	\$((51.37)) <u>52.40</u>	\$((52.09)) <u>53.13</u>
A High (3)	\$((77.78)) <u>79.34</u>	\$((82.78)) <u>84.45</u>	\$((65.61)) <u>66.92</u>	\$((65.61)) <u>66.92</u>	\$((58.28)) <u>59.45</u>
B Low (4)	\$((64.02)) <u>65.30</u>	\$((69.03)) <u>70.41</u>	\$((45.27)) <u>46.18</u>	\$((45.27)) <u>46.18</u>	\$((45.90)) <u>46.82</u>
B Med (5)	\$((71.44)) <u>72.87</u>	\$((76.45)) <u>77.98</u>	\$((57.47)) <u>58.62</u>	\$((57.47)) <u>58.62</u>	\$((58.28)) <u>59.45</u>
B High (6)	\$((85.18)) <u>86.88</u>	\$((90.19)) <u>91.99</u>	\$((73.75)) <u>75.23</u>	\$((73.75)) <u>75.23</u>	\$((66.52)) <u>67.85</u>
C Low (7)	\$((69.32)) <u>70.71</u>	\$((74.33)) <u>75.82</u>	\$((51.37)) <u>52.40</u>	\$((51.37)) <u>52.40</u>	\$((52.09)) <u>53.13</u>
C Med (8)	\$((77.78)) <u>79.34</u>	\$((82.78)) <u>84.45</u>	\$((65.61)) <u>66.92</u>	\$((65.61)) <u>66.92</u>	\$((66.52)) <u>67.85</u>
C High (9)	\$((96.83)) <u>98.77</u>	\$((101.84)) <u>103.88</u>	\$((85.96)) <u>87.68</u>	\$((85.96)) <u>87.68</u>	\$((87.15)) <u>88.89</u>

D Low (10)	\$((71.44)) <u>72.87</u>	\$((76.45)) <u>77.98</u>	\$((57.47)) <u>58.62</u>	\$((57.47)) <u>58.62</u>	\$((66.52)) <u>67.85</u>
D Med (11) -	\$((77.78)) <u>79.34</u>	\$((82.78)) <u>84.45</u>	\$((65.61)) <u>66.92</u>	\$((65.61)) <u>66.92</u>	\$((74.78)) <u>76.28</u>
D High (12)	\$((96.83)) <u>98.77</u>	\$((101.84)) <u>103.88</u>	\$((85.96)) <u>87.68</u>	\$((85.96)) <u>87.68</u>	\$((87.15)) <u>88.89</u>

COMMUNITY RESIDENTIAL DAILY RATES FOR CLIENTS ASSESSED USING CARE

METROPOLITAN COUNTIES*

CARE CLASSIFICATION			ARC	EARC	AFH
	AL Without Capital Add-on	AL With Capital Add-on			
A Low (1)	\$((58.73)) <u>59.90</u>	\$((63.28)) <u>64.54</u>	\$((45.27)) <u>46.18</u>	\$((45.27)) <u>46.18</u>	\$((45.90)) <u>46.82</u>
A Med (2)	\$((61.91)) <u>63.15</u>	\$((66.45)) <u>67.79</u>	\$((49.33)) <u>50.32</u>	\$((49.33)) <u>50.32</u>	\$((50.03)) <u>51.03</u>
A High (3)	\$((75.67)) <u>77.18</u>	\$((80.22)) <u>81.82</u>	\$((62.56)) <u>63.81</u>	\$((62.56)) <u>63.81</u>	\$((55.18)) <u>56.28</u>
B Low (4)	\$((58.73)) <u>59.90</u>	\$((63.28)) <u>64.54</u>	\$((45.27)) <u>46.18</u>	\$((45.27)) <u>46.18</u>	\$((45.90)) <u>46.82</u>
B Med (5)	\$((67.20)) <u>68.54</u>	\$((71.75)) <u>73.18</u>	\$((54.42)) <u>55.51</u>	\$((54.42)) <u>55.51</u>	\$((55.18)) <u>56.28</u>
B High (6)	\$((83.07)) <u>84.73</u>	\$((87.62)) <u>89.37</u>	\$((69.69)) <u>71.08</u>	\$((69.69)) <u>71.08</u>	\$((63.43)) <u>64.70</u>
C Low (7)	\$((61.91)) <u>63.15</u>	\$((66.45)) <u>67.79</u>	\$((49.33)) <u>50.32</u>	\$((49.33)) <u>50.32</u>	\$((50.03)) <u>51.03</u>
C Med (8)	\$((75.67)) <u>77.18</u>	\$((80.22)) <u>81.82</u>	\$((62.56)) <u>63.81</u>	\$((62.56)) <u>63.81</u>	\$((63.43)) <u>64.70</u>
C High (9)	\$((93.65)) <u>95.52</u>	\$((98.20)) <u>100.16</u>	\$((79.85)) <u>81.45</u>	\$((79.85)) <u>81.45</u>	\$((80.97)) <u>82.59</u>
D Low (10)	\$((67.20)) <u>68.54</u>	\$((71.75)) <u>73.18</u>	\$((54.42)) <u>55.51</u>	\$((54.42)) <u>55.51</u>	\$((63.43)) <u>64.70</u>

D Med (11)	\$((75.67)) <u>77.18</u>	\$((80.22)) <u>81.82</u>	\$((62.56)) <u>63.81</u>	\$((62.56)) <u>63.81</u>	\$((70.65)) <u>72.06</u>
D High (12)	\$((93.65)) <u>95.52</u>	\$((98.20)) <u>100.16</u>	\$((79.85)) <u>81.45</u>	\$((79.85)) <u>81.45</u>	\$((80.97)) <u>82.59</u>

*Benton, Clark, Franklin, Island, Kitsap, Pierce, Snohomish, Spokane, Thurston, Whatcom, and Yakima counties.

COMMUNITY RESIDENTIAL DAILY RATES FOR CLIENTS ASSESSED USING CARE					
NON-METROPOLITAN COUNTIES**					
CARE CLASSIFICATION	AL Without Capital Add-on	AL With Capital Add-on	ARC	EARC	AFH
A Low (1)	\$((57.68)) <u>58.83</u>	\$((62.52)) <u>63.77</u>	\$((45.27)) <u>46.18</u>	\$((45.27)) <u>46.18</u>	\$((45.90)) <u>46.82</u>
A Med (2)	\$((61.91)) <u>63.15</u>	\$((66.75)) <u>68.09</u>	\$((48.32)) <u>49.29</u>	\$((48.32)) <u>49.29</u>	\$((49.00)) <u>49.98</u>
A High (3)	\$((75.67)) <u>77.18</u>	\$((80.51)) <u>82.12</u>	\$((61.55)) <u>62.78</u>	\$((61.55)) <u>62.78</u>	\$((54.15)) <u>55.24</u>
B Low (4)	\$((57.68)) <u>58.83</u>	\$((62.52)) <u>63.77</u>	\$((45.27)) <u>46.18</u>	\$((45.27)) <u>46.18</u>	\$((45.90)) <u>46.82</u>
B Med (5)	\$((67.20)) <u>68.54</u>	\$((72.04)) <u>73.48</u>	\$((53.41)) <u>54.48</u>	\$((53.41)) <u>54.48</u>	\$((54.16)) <u>55.24</u>
B High (6)	\$((83.07)) <u>84.73</u>	\$((87.91)) <u>89.67</u>	\$((67.65)) <u>69.00</u>	\$((67.65)) <u>69.00</u>	\$((62.41)) <u>63.66</u>
C Low (7)	\$((61.91)) <u>63.15</u>	\$((66.75)) <u>68.09</u>	\$((48.32)) <u>49.29</u>	\$((48.32)) <u>49.29</u>	\$((49.00)) <u>49.98</u>
C Med (8)	\$((75.67)) <u>77.18</u>	\$((80.51)) <u>82.12</u>	\$((61.55)) <u>62.78</u>	\$((61.55)) <u>62.78</u>	\$((62.41)) <u>63.66</u>
C High (9)	\$((93.65)) <u>95.52</u>	\$((98.49)) <u>100.46</u>	\$((76.80)) <u>78.34</u>	\$((76.80)) <u>78.34</u>	\$((77.88)) <u>79.44</u>
D Low (10)	\$((67.20)) <u>68.54</u>	\$((72.04)) <u>73.48</u>	\$((53.41)) <u>54.48</u>	\$((53.41)) <u>54.48</u>	\$((62.41)) <u>63.66</u>
D Med (11)	\$((75.67)) <u>77.18</u>	\$((80.51)) <u>82.12</u>	\$((61.55)) <u>62.78</u>	\$((61.55)) <u>62.78</u>	\$((68.59)) <u>69.96</u>

D High (12)	\$((93.65))	\$((98.49))	\$((76.80))	\$((76.80))	\$((77.88))
	<u>95.52</u>	<u>100.46</u>	<u>78.34</u>	<u>78.34</u>	<u>79.44</u>

** Non-Metropolitan Counties: Adams, Asotin, Chelan, Clallam, Columbia, Cowlitz, Douglas, Ferry, Garfield, Grant, Grays Harbor, Jefferson, Kittitas, Klickitat, Lewis, Lincoln, Mason, Okanogan, Pacific, Pend Orielle, San Juan, Skagit, Skamania, Stevens, Wahkiakum, Walla Walla and Whitman.

AMENDATORY SECTION (Amending WSR 06-07-012, filed 3/3/06, effective 4/3/06)

WAC 388-105-0035 Requirements for a capital add-on rate for licensed boarding homes contracted to provide assisted living (AL) services. (1) ~~((a))~~ To the extent ~~((of available funding))~~ funds are appropriated to pay a capital add-on rate to AL contractors, beginning July 1, 2006 and every July 1 thereafter, the department will ((grant)) pay a capital add-on rate to AL contractors that have a Medicaid occupancy percentage that equals or exceeds ((the applicable biyearly Medicaid minimum occupancy percentage set)) sixty percent as determined in accordance with subsection (2) and (3) of this section ((and meet the construction requirements in subsection (4) of this section)). The department will pay the capital add-on rate to those AL contractors meeting the sixty percent Medicaid occupancy percentage for a full fiscal year i.e., July 1 through June 30.

(2) The department will determine an AL contractor's Medicaid occupancy percentage by dividing its Medicaid resident days from the last six months of the calendar year preceding the applicable July 1 rate effective date by the product of the weighted average for all its licensed boarding home beds irrespective of use times the calendar days (one hundred eighty-four) for the same six-month period ((beginning one year prior to the percentage effective date)).

(3) ~~((a))~~ To set the biyearly Medicaid minimum occupancy percentage, the department will:

(i) ~~Determine the estimated total budgeted funds for capital add-on rates for the six-month period;~~

(ii) ~~Rank from highest to lowest the individual AL contractor occupancy percentages determined in accordance with subsection (2) of this section;~~

(iii) ~~Assign, beginning with the highest AL contractor's Medicaid occupancy percentage, the estimated expenditure needed to pay the capital add-on rate to each facility for the six-month period;~~

(iv) ~~Identify the AL contractor's Medicaid occupancy percentage at which the estimated total budgeted funds determined under subsection (3) (a) (i) of this section would be expended; and~~

(v) ~~Set that Medicaid occupancy percentage as the biyearly Medicaid minimum occupancy percentage.~~

(b) ~~The biyearly Medicaid minimum occupancy percentage will be~~

~~set every January 1 and July 1.~~

~~(4) To receive a capital add-on rate, the AL contractor that meets the Medicaid minimum occupancy percentage established in accordance with subsection (2) and (3) of this section must:~~

~~(a) Attest in writing that it has units that meet the following requirements and that it places Medicaid residents in such units, except the contractor need only place the Medicaid resident in a room with a roll-in shower when the resident's service plan and assessment details require the Medicaid resident to have a roll-in shower:~~

~~(i) A private apartment-like unit of two hundred and twenty square feet that may include counters, closets and built-ins, but must exclude the bathroom;~~

~~(ii) A separate private bathroom that includes a sink, toilet, and a shower or bathtub. The licensed boarding home must have a minimum of one wheelchair accessible bathroom with a roll-in shower of at least forty-eight inches by thirty inches for every two residents whose care is partially or fully funded by Medicaid;~~

~~(iii) A lockable entry door;~~

~~(iv) A kitchen area equipped with a refrigerator, microwave oven or stove top, a counter surface of a minimum of thirty inches wide by twenty-four inches in depth, a maximum height of thirty-four inches, and a knee space beneath at least twenty-seven inches in height, a storage space for utensils and supplies; and~~

~~(v) A living area wired for telephone and television service when available in the geographic location; or~~

~~(b) When the AL contractor does not have units that meet the requirements of subsection (4)(a) of this section, then the AL contractor may receive a capital add-on rate when its AL facility meets the definition of "new boarding home" in WAC 388-110-140 (2)(a) or its AL facility is "grandfathered" under WAC 388-110-140(3)).~~ For the purposes of this section, Medicaid resident days include those clients enrolled in Medicaid managed long-term care programs, including but not limited to the program for all inclusive care (PACE) and Medicaid/Medicare integration project (MMIP).

AMENDATORY SECTION (Amending WSR 06-07-013, filed 3/3/06, effective 4/3/06)

WAC 388-105-0045 Bed or unit hold - Medicaid resident discharged for a hospital or nursing home stay from an adult family home (AFH) or a boarding home ~~((with an))~~ contracted to provide adult residential care ((services)) (ARC), enhanced adult residential care ~~((services))~~ (EARC), or assisted living services (AL) ~~((contract))~~. (1) When an AFH, ARC, EARC, or AL contracts to provide services under chapter 74.39A RCW, the AFH, ARC, EARC, and AL contractor must hold a Medicaid eligible resident's bed or unit when:

- (a) Short-term care is needed in a nursing home or hospital;
- (b) The resident is likely to return to the AFH, ARC, EARC, or

AL; and

(c) Payment is made under subsection (3) of this section.

(2) (a) When the department pays the contractor to hold the Medicaid resident's bed or unit during the resident's short-term nursing home or hospital stay, the contractor must hold the ((unit or)) bed or unit for up to twenty days. If during the twenty day bed hold period, a department case manager determines that the Medicaid resident's hospital or nursing home stay is not short term and the Medicaid resident is unlikely to return to the AFH, ARC, EARC or AL facility, the department will cease paying for the bed hold the day the case manager notifies the contractor of his/her decision.

(b) A Medicaid resident's discharge from an AFH, ARC, EARC, or an AL facility for a short term stay in a nursing home or hospital must be longer than twenty-four hours before subsection (3) of WAC 388-105-0045 applies.

(3) The department will compensate the contractor for holding the bed or unit for the:

(a) First through seventh day at seventy percent of the medicaid daily rate paid for care of the resident before the hospital or nursing home stay; and

(b) Eighth through the twentieth day, at ((ten)) eleven dollars ((and seventy-eight cents)) a day.

(4) The AFH, ARC, EARC, or AL facility may seek third-party payment to hold a bed or unit for twenty-one days or longer. The third-party payment shall not exceed the Medicaid daily rate paid to the facility for the resident. If third-party payment is not available and the returning Medicaid resident continues to meet the admission criteria under chapter 388-71 and/or 388-106 WAC, then the Medicaid resident may return to the first available and appropriate bed or unit.

(5) The department's social worker or case manager determines whether the:

(a) Stay in a nursing home or hospital will be short-term; and

(b) Resident is likely to return to the AFH, ARC, EARC, or AL facility.

(6) When the resident's stay in the hospital or nursing home exceeds twenty days or the department's social worker or case manager determines that the Medicaid resident's stay in the nursing home or hospital is not short-term and the resident is unlikely to return to the AFH, ARC, EARC, or AL facility, then only subsection (4) of this section applies to any private contractual arrangements that the contractor may make with a third party in regard to the discharged resident's unit or bed.